

THE TRAVANCORE PUBLIC HEALTH BILL.

Mr. N. Ramakrishna Pillai: Sir, I move that the Travancore Public Health Bill as passed by the Assembly be taken into consideration.

Mr. S. Narayana Aiyar: I second it.
The motion was put and carried.

Clause 1.

Mr. K. A. Raman Pillai: Sir, I beg to move the following amendment:—

"In clause I, sub-clause (2) add after the word Travancore the following words 'except to such local areas as may at any time be notified by Our Government in the Government Gazette'."

My object in bringing this amendment is to make the necessary provisions to invest a discretionary jurisdiction in the Government to exclude mainly the Trivandrum Corporation from the ambit of this Bill, if the Corporation is discharging its functions to the satisfaction of Government in the matter of its health activities. Public health and sanitation are the two most important obligatory functions of the Corporation and the Municipal Councils. As regards the Corporation, these functions are discharged by the authorities constituted under the City Municipal Act. The authorities of the Corporation who are responsible for the public health and sanitation are the Corporation Council, the Health Standing Committee and the Commissioner and they have also got the powers of appointment and control of the health section. The effect of the provisions of this Bill will be practically to nullify the powers vested in these authorities and to vest them in the Health Officer who is only an employee of the Corporation and in the Director of Public Health who is an extraneous authority so far as the Corporation is concerned.

President: Does it take away the powers of the Corporation to lay down rules?

Mr. K. A. Raman Pillai: Practically the powers which are of a substantial nature are vested in the Health Officer and the Director of Public Health. When the Bill becomes law the functions of the Corporation will be reduced to a collecting agency without any effective voice in the disposal of its funds.

I shall substantiate my arguments by a reference to the relevant provisions of the Bill.

Now, section 6 clause (1) of the Bill lays down that "the public health establishment of every local authority shall be on such scale as Our Government may from time to time direct." and clause (2) says.

"The authorities who may make appointments to the public health establishment referred to in sub-section (1), the conditions of service of the members of such establishments and the duties of such members shall, notwithstanding anything contained in the Trivandrum City Municipal Act or the Travancore District Municipalities Act" etc.

That is to say notwithstanding anything contained in these Acts, it is open to the Government to lay down regulations by means of which appointments may be made and the control of the staff regulated. Those powers are now vested in the Health Standing Committee and the Commissioner in the Corporation Council. If the appointment in the public health establishment is one the pay of which does not exceed Rs. 100, it could be made by the Commissioner as regards the Corporation. When it exceeds Rs. 100 the appointment is to be made by the Mayor. The schedule of appointment must be laid before the Corporation Council and the Council is competent to make such amendments as they deem fit. Of course, under the existing provisions of the Public Health Bill, it will be quite in order to prescribe regulations by means of which the power of appointments and control of staff may be vested in any other authority than that mentioned in the City Municipal Act. It is open.....

Mr. K. G. Kunjukrishna Pillai: No.

Mr. K. A. Raman Pillai: I say, yes, the only restriction is that those regulations should not be inconsistent with the Public Health Bill. That is one thing.

Then, Clause 11 would have it that subject to such rules as may be prescribed including rules for consultation with the local authorities concerned the Director of Public Health shall have power to transfer any member of the Public Health establishment of a local authority to the Public Health establishment of another local authority,....etc. Then again, the Corporation is the offspring of the City Municipal Act and the municipalities are established by the District Municipalities Act. They are each governed by two different Acts. Under the present provision, it will be competent for the Director of Public Health to transfer any employee from the public health establishment of the corporation to the public health establishment of any Municipal Council. It will be quite possible to transfer any employee from the health section of the Trivandrum Corporation to the health section of Colachel Municipality. If both the corporation and municipalities are established

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under the same Act, it would be perhaps understandable. Formerly all the Municipalities were constituted by the Municipal Act of 1095. But, now they are functioning under two different Acts. To enable the Public Health Director, to wield powers of transferring persons from the public health establishment of the corporation to any another municipality is to allow him to encroach upon the powers now vested in the authorities of the corporation. As a matter of fact it will be seen from the scheme of the City Municipal Act that the Health Officer is only a subordinate authority of the corporation. He is subject to the orders of the Commissioner and the council of the Corporation.

Then again, Clause 12 lays down thus.

"The Health Officer in charge of any local area shall exercise supervision and control over all the members of the public health establishment in such area.

"Save as otherwise provided in this Chapter or in any rules or regulations made under it, all appointments, transfers and punishments of the members of the public health establishment under the supervision and control of the health officer shall be made by the health officer, subject to the approval of the executive authority".

If there is difference of opinion between the executive authority and the Health Officer the executive authority shall abide by the orders of Government. These provisions are in derogation of the provisions in the City Municipal Act.

Mr. K. G. Kunjukrishna Pillai : Sir, one question. His amendment is to enable the Government at any time to make an exemption. His argument is that the corporation is handicapped because of this Bill. How does it induce

Mr. K. A. Raman Pillai : Sir, I said at the outset that a discretionary power be vested in Government. It is only a modest request that I make. If the Government are satisfied that...

President : There is one difficulty which the honourable member will have to bear in mind in discussing this matter. He is an experienced councillor and therefore I am putting it to him. I admit for a moment without controversy that the Corporation was doing certain work in the matter of public health ; but epidemics do not generally confine themselves to geographical boundaries, and assuming that an outbreak of malaria starts in the foothills ten or fifteen miles away, as it indeed did not long ago on a previous occasion, honourable members will concede that a uniform set of rules and regulations and the application of those uniform rules

over a big area and a concerted effort would be necessary. Would it not then tend to create cleavage of opinion if, for instance, the corporation of Trivandrum, exempted as it is sought to be, were to take one line of conduct which is not in consonance with the line adopted by the Government? It is not an imaginary contingency. It arose not long ago in Calcutta. Certain health regulations and appointments of certain officials were suggested by the Government of Bengal to the Corporation of Calcutta. The Corporation by a fairly large majority of votes said that the Government were encroaching, and that they did not propose to adopt the public health rules proposed by the Government or to appoint persons or to remove the officers whom the Government considered inefficient. The result of it, as honourable members who are perusing the newspapers might have realised, that the Government proposed to take over the Corporation of Calcutta. Thereupon, there was another series of meetings held and they came to a compromise. Therefore, the whole problem is not very imaginary. I am not assuming that the Corporation of Trivandrum would be reckless or would make things difficult for the Government. But honourable members, they say that they should exempt the corporation, should bear in mind that point.

Mr. K. A. Raman Pillai : Sir, there are ample provisions in the City Municipal Act empowering Government to take such steps as are necessary.

President : Yes, the powers of Government are so drastic. But once you start it as a self governing organisation, it is very difficult for Government to say "we think different from you, you do so and so".

Mr. K. A. Raman Pillai : Of course, it is open to Government to exercise all those powers. It can be seen that the City Municipal Act is modelled on the provisions of the Madras Act, and in the Public Health Act of Madras, special provisions are made so as to exempt the Madras Corporation from certain provisions of the Public Health Act.

President : I happened to know that fairly well.

Mr. K. A. Raman Pillai : That is to say in regard to the controlling and appointment of the Health staff. The Corporation of Madras is exempted from the particular provisions of the Madras Public Health Act.

Mr. K. G. Kunjukrishna Pillai : Here also.

Mr. K. A. Raman Pillai: I do not know how the Advocate General says that here also there are exemptions.

Then the next question is whether there is any necessity for this. There are parallel provisions relating to mosquito control, water supply etc., in the City Municipal Act and if other provisions are necessary, that may be framed under Section 366 of the City Municipal Act by way of bye-laws.

Then, the question is whether the Corporation of Trivandrum carries out its duties satisfactorily. I was extremely happy at the observations of the President regarding the work of the Corporation in the matter of Public Health.

Mr. G. Ravi Varma: Is it a question of wounding the self-respect of the Corporation?

Mr. K. A. Raman Pillai: Certainly not. The question of self respect does not arise. When I say that the Corporation of Trivandrum should be excluded from the ambit of the Bill, I only mean that the Corporation when it carries out its duty satisfactorily should be exempted. Again the Council of the Corporation shall appoint a Health Officer. That is what the City Municipal Act says. So, there cannot be any question of evasion regarding that. And we are also having our Assistant Health Officer, Mosquito Control Officers, Sanitary Inspectors and others.

With regard to the question of providing funds, the provision in the Public Health Bill is that 30 per cent of the amount should be earmarked for public health activities. But the Corporation is spending more than 40 per cent of its income, more than two lakhs every year for its health activities. The Corporation maintains public comfort stations, maternity and child welfare centres, parks and other institutions. So, there is no question of the Corporation failing to discharge the functions expected of it.

Then, with regard to the propriety of excluding particular areas, it may be mentioned that the Public Health Act of England (1936) extend to England and Wales exclusive of the administrative county of London.

I also note that the bill as passed by the Assembly contains a provision for the formation of a Public Health Board and I am thankful to Government that due representation is proposed to be given to the Corporation of Trivandrum and the Municipalities on the Public Health Board. But that does not solve the problem that I now raise. Moreover, the demand that I have made is only very modest. What I say is that a discretionary power may be

vested in the Government to exclude particular areas from the ambit of the Bill. It is a modest demand.

Sir, with these words, I move the amendment for the kind consideration of the House.

Mr. G. Narayana Aiyar : I second it.

Mr. K. G. Kunjukrishna Pillai : I am afraid, the amendment proposed by the honourable member will not give him the advantages that he says, he seeks out of it. The amendment is to enable the Government to exempt or except local areas whenever the Government think fit. It is the Government that have sponsored this Bill. It is the Government, according to my honourable friend, that have now trodden on the privileges of the Corporation. Therefore,....

President : What the member expects is that after this speech, the trodding will be softer.

Mr. K. G. Kunjukrishna Pillai : So, the amendment proposed is not going to benefit the Corporation or any Municipality, because it is the Government who feel strongly that there should be an Act which must prevail over the whole of the State. Therefore, the object of the amendment is not likely to be achieved.

Secondly, if only my honourable friend had given his attention to one broad point, he would have seen how difficult it would be to carry into effect the provisions of the Bill if the amendment has been passed. I will illustrate. It will be seen from every chapter of the Bill that the local authority has to do many things. In some cases, the Government may direct the local authority to do certain things. Take, for example, Section 15 of Chapter 3. "Every local authority may, and if Our Government so direct shall, provide or arrange for the provision of a sufficient supply of drinking water for consumption by the inhabitants of the area within its jurisdiction." So, if the Government take it into their head to exempt, say, Alleppey from the provisions of this Act, the section which gives power to the local authority and in fact the whole chapter will be inapplicable to the Municipality. Take again the case of the Corporation itself. All these chapters are in one sense merely advisory and almost every chapter begins with a clause that the local authority shall supply, shall prevent contagious diseases, shall provide lodging houses etc. Each chapter is intended to control a particular activity of the Public Health Department. In fact, the whole Bill is intended to control the work of Public Health in the State. Supposing the Government put up a notification to the effect that Alleppey or Trivandrum shall be

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exempt from the operation of this Act—that is what the amendment seeks—the whole thing will come to a standstill and no action could be taken by the Corporation or by the Municipality on any of these things, because there will be no Act applicable to that locality.

Mr. K. A. Raman Pillai: May I ask the honourable member whether he does not find parallel provisions in the City Municipal Act?

Mr. K. G. Kunjukrishna Pillai: We do find parallel provisions in other Acts for certain things, for example, take leper control. Most of the provisions in the City Municipal Act regarding that control are contained in the Public Health Bill. Take again the case of contagious diseases or the case of overcrowding. The honourable member will agree with me in private (laughter) that there is no doubt in this matter. This Bill contains a large number of additional provisions and a large number of amplificatory provisions. Therefore, I submit to the House that if you empower the Government by this amendment to exempt a particular locality from the operation of this Act, a grave danger will result out of it. Supposing the Government act upon that power, say, in times of emergency, nothing could be done in particular localities.

Coming to the grievances of the Trivandrum Corporation, I agree that the Trivandrum Corporation has now got certain powers. Nobody wants to infringe on those powers of the Corporation. The powers given under this Act are parallel powers given to another body. The real difficulty will arise only when the views of the Corporation come into conflict with those of the Director of Public Health. Supposing, for instance, an epidemic like cholera is raging both inside and outside the City and the City Municipality comes to the conclusion that certain measures taken by it are sufficient, and the Director of Public Health on the other hand feels that they are not sufficient, what is the gain that the Corporation would get upon this matter? After all, this is not a matter of privilege but of duty. Whenever there is a conflict, it would arise out of the discharge of the duty and not out of the exercise of the privilege. What is the difficulty for the Corporation in discharging a special duty? If another authority can also discharge the duty, probably with greater powers, there will be no question of infringing any one's privileges. That is the real point at issue. The two sections that have been pointed out by the honourable member really do not affect the issue. Of course, it is true that the Corporation appoints its own Health Officer. Take, for instance

the Trivandrum Corporation. It appoints a Health Officer. There is an epidemic of malaria in Pathanamthitta taluk. The Public Health authorities are short of hands. So, the Corporation Health Officer is immediately transferred to Pathanamthitta taluk. Does this House want it or not? The Corporation has an Assistant Public Health Officer of equal competency. The Corporation does not suffer if its Health Officer is transferred and in fact that is what is happening today. The Health Officer is being utilised elsewhere to deal with cases of emergency.

Mr. K. A. Raman Pillai: The services of the Corporation are requisitioned by the Government and the Corporation allows it. That is all.

Mr. K. G. Kunjukrishna Pillai: Supposing the Corporation does not allow it. Then this Act would make Government act. These are matters in which larger questions are concerned and therefore, I would request the honourable member not to look at it from a parochial point of view. No self-respect is affected, because the Corporation has ample powers. The honourable member says that under this Act, we are only asking for thirty per cent of the income to be set apart for Public Health but that we are spending fifty per cent. What does it matter if we spend 50 or more per cent in the interests of public health in the State? We should insist on the Corporation spending a minimum of 30 per cent. There is absolutely no conflict between the Corporation Act, the Municipalities Act and the Public Health Act. Therefore, in the interests of the whole State it is absolutely necessary that certain powers should be given to the Government and the Public Health Director in an emergency, to supersede, if necessary, the Corporation or any Municipality. Nothing more is contemplated, and no Corporation if it looks at the matter not from its own point of view, but from the point of view of the whole state, will have any cause for complaint. Therefore, on these two grounds, I oppose the amendment and hold that the amendment would not give what is wanted. The amendment if carried, would make it impossible for certain sections to be applied. Thirdly, the Corporation, in essence, is not affected by the amendment. I therefore oppose the amendment on these grounds.

Mr. K. A. Raman Pillai: In view of the statement of the President and of the Advocate-General, I beg leave to withdraw my amendment.

The amendment was, by leave of the House, withdrawn.

Clauses 1 to 163.

The question that clauses 1 to 163 stand part of the Bill was put and carried.

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Clauses 1 to 163 were added to the Bill.

SCHEDULE, TITLE AND PREAMBLE.

The question that the Schedule, title and preamble stand part of the Bill was put and carried.

The Schedule, title and preamble were added to the Bill.

Mr. N. Ramakrishna Pillai : I move that the Bill be passed.

Mr. S. Narayana Aiyar : I second it.

The motion was put and carried, and the Bill was passed.

President : The business of the House being over, the House will now adjourn and meet again at 12 Noon tomorrow.

The House rose at 1.25 P. M.

Council Office,
10th August 1945.

S. VAIDYANATHA AIYAR,
Secretary to the Sri Chitra State Council.
